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GARY SAFARIK

COUNTY COUNCIL

*County of Hawai'i
Hawai'i County Building
25 Aupuni Street
Hilo, Hawai'i 96720*

20th Session

ORDER OF BUSINESS

Hawai'i County Council
Hilo, Hawai'i

Thursday, September 8, 2005
9:00 a.m.

INVOCATION

Reverend Mary David of Honpa Hongwanji Hilo Betsuin

CALL TO ORDER

9:18 a.m.

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

June 29, 2005 – APPROVED

(Note: Please turn cell phones, pagers, and other mobile communication devices on silent mode.)

PETITIONS, MEMORIALS, COMMUNICATIONS, CERTIFICATES OF MERIT AND EXPRESSIONS OF CONDOLENCE

9:00 A.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF RESOLUTIONS

ORDER OF RESOLUTIONS

Res. 134-05: Authorizes the Payment of Funds of a Later Fiscal Year and of More Than One Fiscal Year (5 Years) for Two Wheel Loaders, One Steer Loader, One Hydraulic Excavator, Three Open Top Refuse Trailers, and One Truck Tractor. {Equipment is necessary to operate the reload facility, which is estimated to begin operations in early FY 2006-07.}

Re: Comm. 358
Intr. by: Ms. Isbell (B/R)
Approve: FC-133

ADOPTED:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: Council Member Arakaki – 1.

ABSENT & EXCUSED:None.

Res. 145-05: Authorizes the Acceptance of Lot R-1 (Tax Map Key:(3)1-7-001: Portion of 012) and R-2 (Tax Map Key:1-7-017: Portion of 002), Situate at Olaa, Puna, Island, County and State of Hawai'i, from the State of Hawai'i. {Acquired properties would be used for the realignment of the Volcano/Huina Road intersection.}

Re: Comm. 380
Intr. by: Mr. Ikeda
Approve: PWIRC-19

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Res. 146-05: Authorizes the Acceptance of a Donation of Real Property from Ronald Ellis Houchen, Tax Map Key:(3)9-6-018-010. {Said donation would be made part of the Pīkake Street and Pakalana Street right-of-way in Pāhala Village.}

Re: Comm. 381
Intr. by: Mr. Ikeda
Approve: PWIRC-20

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Res. 147-05: Authorizes the Exchange of Real Property with Dorothy L.H. Liu, Tax Map Keys: (3)2-4-063:122 (Portion), and 2-4-063:130 (Portion). {The exchange of real property would be used as part of the Kawaiilani Street Bridge improvements.}

Re: Comm. 382
 Intr. by: Mr. Ikeda
 Approve: PWIRC-21

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Res. 148-05: Changes the Time Element of the Following Department of Parks and Recreation Aquatic Positions: One Lifeguard I (Pool) 3/5T and One Lifeguard (Pool) 1/2T to Full Time; One Lifeguard I (Pool) 1/2T to 3/5T; and One Swimming Pool Custodian 1/2T to Full Time. {These positions are located at the Kona Community Aquatic Center and would enable staff to maintain safer levels of coverage, ensure normal operations of the facility, as well as increase overall health and safety standards for the pool water, the locker rooms, and the entire facility.}

Re: Comm. 384
 Intr. by: Ms. Isbell
 Approve: FC-135

ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Res. 155-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s). {Transfers/appropriates \$3,500 out and from Clerk-Council Services – Contingency Relief account; credits same to Transfer to Hawai'i County Resource Center Department of Research and Development. Appropriation would be used to fund the "Waimea Design Studio" community development planning project to be administered by the Department of Research and Development in October 2005.}

Re: Comm. 406
 Intr. by: Mr. Hoffmann
 Waived: FC

AMENDED TO DRAFT 2 & ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Res. 160-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
 {Transfers/appropriates \$5,000 out and from Clerk-Council Services – Contingency Relief account; credits same to Transfer to Parks and Recreation Portable Flooring (Edith Kanakaole Tennis Stadium/Hoolulu Complex).}

Re: Comm. 418
 Intr. by: Mr. Holschuh
 Waived: FC

ADOPTED:

AYES: Council Members Arakaki, Holschuh, Ikeda, Isbell,
 Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED:Council Member Hoffmann – 1.

Res. 161-05: Transfers/Appropriates an Appropriation Out and From the Designated Fund Account(s) and Credits Same to a Designated Fund Account(s).
 {Transfers/appropriates \$28,400 out and from Clerk-Council Services – Contingency Relief account; credits same to Transfer to Parks and Recreation Portable Flooring (Edith Kanakaole Tennis Stadium/Hoolulu Complex).}

Re: Comm. 419
 Intr. by: Mr. Higa
 Waived: FC

ADOPTED:

AYES: Council Members Arakaki, Holschuh, Ikeda, Isbell,
 Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED:Council Member Hoffmann – 1.

Res. 162-05: Supports the Expedited Construction of a Reload Facility. {This would facilitate the collection of commercial and residential trash to be sorted, reloaded, and compacted, thus minimizing the number of trailers needed to move East Hawai'i's trash to an ultimate disposal site.}

Re: Comm. 422
 Intr. by: Mr. Higa
 Waived: FC

AMENDED TO DRAFT 2 & ADOPTED:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda,
 Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

9:30 A.M.: STATEMENTS FROM THE PUBLIC ON BILLS FOR ORDINANCES (FIRST READING)

BILLS FOR ORDINANCES (FIRST READING)

Bill 121: Amends Ordinance No. 05-87, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2005 to June 30, 2006. {Adds ENVIRONMENTAL MANAGEMENT: East Hawai'i Regional Sort Station (\$4,000,000); funds to be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$4,000,000).}

Re: Comm. 358
 Intr. by: Ms. Isbell (B/R)
 No Recommendation: FC-132 (due to a vote of 4 ayes, 4 noes & 1 excused)
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

AMENDED TO DRAFT 2 & PASSED 1ST READING:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: Council Member Arakaki – 1.

ABSENT & EXCUSED:None.

Bill 122 (Draft 2): Amends Ordinance No. 05-87, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2005 to June 30, 2006. {Adds ENVIRONMENTAL MANAGEMENT: Planning for Waste Reduction Technology (\$500,000); funds to be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$500,000). Funds would be used for planning, engineering and environmental consulting, and preparation of a Request for Proposals for a waste reduction technology project. }

Re: Comm. 359.1
 Intr. by: Mr. Higa
 Approve: FC-134
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

PASSED 1ST READING:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED:None.

Bill 131: Amends Ordinance No. 05-87, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2005 to June 30, 2006. {Adds ENVIRONMENTAL MANAGEMENT: Wailoa Sewage Pump Station Renovation – State Revolving Fund (\$3,000,000); funds to be provided from State Revolving Funds (\$3,000,000). Funds would be used to renovate the Wailoa Sewage Pump Station, which would include an upgrade of the electrical system, installation of an additional pump, installation of a supervisory control and data acquisition system, and roof replacement. }

Re: Comm. 386
 Intr. by: Ms. Isbell (B/R)
 Approve: FC-136
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

PASSED 1ST READING:

AYES: Council Members Arakaki, Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 9.

NOES: None.

ABSENT & EXCUSED: None.

Bill 132: Amends Ordinance No. 05-87, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2005 to June 30, 2006. {Adds ENVIRONMENTAL MANAGEMENT: West Hawai'i Composting Facility (\$1,000,000); funds to be provided from General Obligation Bonds, Capital Projects Fund – Fund Balance and/or Other Sources (\$1,000,000). Funds would be used to develop a legally permitted composting facility at the resource recovery area adjacent to the West Hawai'i Sanitary Landfill at Pu'uuanahulu, which would provide for composting of greenwaste and other organics that are presently being disposed at our landfills. }

Re: Comm. 387
 Intr. by: Ms. Isbell (B/R)
 Approve: FC-137
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

POSTPONED TO 10/18/05 COUNCIL MEETING:

Bill 133: Authorizes the Mayor of the County of Hawai'i to Enter Into an Intergovernmental Agreement for a State Water Pollution Control Revolving Fund Loan for Wastewater Public Improvement Projects; and Authorizes the Issuance of \$5,600,000 General Obligation Bonds of the County of Hawai'i for the Purpose of Financing Qualified Wastewater Public Improvements of the County of Hawai'i. {State Revolving Funds would be used for the Environmental Management Department's Honokohau Harbor Effluent Reuse Project (\$2,600,000) and the Wailoa Sewage Pump Station Renovation Project (\$3,000,000), for a total of \$5,600,000.}

Re: Comm. 388
 Intr. by: Ms. Isbell (B/R)
 Approve: FC-138

PASSED 1ST READING:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

Bill 134 (Draft 2): Amends Chapter 23, Hawai'i County Code 1983 (2005 Edition) to Provide Enhanced Public Notice of Proposed Development. {Requires a developer or landowner to post a sign of a proposed development on the affected property for subdivision approval or variance.};

Re: Comm. 389.3
 Intr. by: Mr. Jacobson
 Approve: PC-31

and

Comm. 389.4: From Council Member Bob Jacobson, dated August 24, 2005, transmitting Bill 134, Draft 3. Draft 3 amendments are changes to structure and format, with no change to substance, content, or intent; *and*

Bill 134 (Draft 3): Amends Chapter 23, Hawai'i County Code 1983 (2005 Edition) to Provide Enhanced Public Notice of Proposed Development.

Intr. by: Mr. Jacobson

PASSED 1ST READING:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

Bill 135
(Draft 2): Amends Chapter 25, Article 2, Division 1, Hawai'i County Code 1983 (2005 Edition), to Provide Enhanced Public Notice of Proposed Development. {Requires a developer or landowner to post a sign of a proposed development on the affected property for the following land use approvals or permits pursuant to Chapter 25 of the Hawai'i County Code: zoning amendment, project district, agricultural project district, variance except setback variance, use permit, planned unit development permit, or cluster plan development.};

Re: Comm. 390.1
Intr. by: Mr. Jacobson
Approve: PC-32

and

Comm. 390.2: From Council Member Bob Jacobson, dated August 24, 2005, transmitting Bill 135, Draft 3. Draft 3 amendments are changes to structure and format, with no change to substance, content, or intent; *and*

Bill 135
(Draft 3): Amends Chapter 25, Article 2, Division 1, Hawai'i County Code 1983 (2005 Edition), to Provide Enhanced Public Notice of Proposed Development.

Intr. by: Mr. Jacobson

PASSED 1ST READING:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

10:30 A.M.: STATEMENTS FROM THE PUBLIC ON ORDER OF THE DAY (SECOND OR FINAL READING)

ORDER OF THE DAY (SECOND OR FINAL READING)

Bill 124: Amends Ordinance No. 05-86, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2006. {Increases revenues in Federal Grants – Marijuana Eradication (\$61,788); appropriates same to Marijuana Eradication. Funds would be used to compensate for overtime incurred during marijuana operations, investigations, and community meetings; purchase equipment to enhance safety issues during operations/investigations; pay for helicopters service costs; cover travel expenses for attending training workshops and seminars; and assist in marijuana investigations in conjunction with the "Weed and Seed" Program. }

Re: Comm. 367
Intr. by: Ms. Isbell
1st Reading: August 17, 2005

PASSED 2ND & FINAL READING:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Pilago, Safarik, and Chair Higa – 7.

NOES: Council Member Jacobson – 1.

ABSENT & EXCUSED: Council Member Arakaki – 1.

Bill 125: Amends Ordinance No. 05-86, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2006. {Appropriates revenues in Fund Balance from Previous Year (\$16,000); appropriates same to 'Alae Cemetery Improvements Other Current Expense. Funds would be used to repave the 'Alae Cemetery.}

Re: Comm. 369
 Intr. by: Ms. Isbell
 1st Reading: August 17, 2005

PASSED 2ND & FINAL READING:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell,
 Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

Bill 126: Amends Chapter 9 of the Hawai'i County Code, Relating to Electricity. {The purpose of this bill is to adopt amendments to Chapter 9, Electrical Code, to address local conditions or situations. Significant amendments include: (1) updating the reference from 1993 to 2002 National Electrical Code; (2) deleting exception for temporary construction services in Section 9-9, relating to Inspections; (3) requiring supervising electrician or electrical contractor to be present on job site upon request of the administrative authority; (4) clarifying procedures regarding defective installations; (5) adding an exception that allows testing of commercial installations prior to final inspection and approval under designated circumstances; and (6) allowing the Department of Public Works to arrange for the discontinuation of electrical services of any installation in violation of the chapter.}

Re: Comm. 375
 Intr. by: Mr. Ikeda
 1st Reading: August 17, 2005

PASSED 2ND & FINAL READING:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell,
 Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

Bill 127: Amends Ordinance No. 05-87, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2005 to June 30, 2006. {Establishes the following program appropriations: TEA-21 Projects (Federal Aid) (\$3,350,000) and Local Road Improvements (\$3,350,000), for a total of \$6,700,000; funds to be provided from that portion of the Highway Fund designated as the Fuel Tax Increase Account No. 3104.06, and consists of the increased fuel tax revenues created pursuant to Resolution Nos. 192-97 and 241-98. Specific projects are listed on Exhibit A.}

Re: Comm. 377
 Intr. by: Ms. Isbell
 1st Reading: August 17, 2005
 2/3 Vote: Section 10-6(d), Hawai'i County Charter

PASSED 2ND & FINAL READING:

AYES: Council Members Hoffmann, Holschuh, Ikeda, Isbell, Jacobson, Pilago, Safarik, and Chair Higa – 8.

NOES: None.

ABSENT & EXCUSED: Council Member Arakaki – 1.

REPORTS

REFERRALS FOR EXECUTIVE SESSION

(The purpose of the meeting is to consult with Corporation Counsel relating to matters involving potential County liability, as authorized by Sections 92-4 and 92-5, HRS. Note: 2/3 Vote – Pursuant to §92-4, HRS, and Rule 12 of Rules of Procedure of the County Council.)

Comm. 411: DANIEL DESPRES V. ERIKA FRITTS, ET AL. CIVIL NO. 04-1-129K
 From Deputy Corporation Counsel Brandon A. K. Gonzalez, dated August 23, 2005.
CONCURRED WITH THE RECOMMENDATION OF CORP. COUNSEL

OTHER BUSINESS

(Including but not limited to consideration of vetoed items, if any, or reconsideration of actions on agenda items.)

ANNOUNCEMENTS

	<u>TUESDAY, SEPTEMBER 20, 2005</u>	
PUBLIC SAFETY & PARKS & RECREATION COMMITTEE	9:00 a.m.	SHERATON KEAUHOU BAY RESORT & SPA
FINANCE COMMITTEE	10:00 a.m.	
PLANNING COMMITTEE	1:00 p.m.	
ENVIRONMENTAL MANAGEMENT COMMITTEE	2:00 p.m.	
PLANNING COMMITTEE PUBLIC HEARING RE BILL 123 (KPC DEVELOPMENT)	6:00 p.m.	

	<u>WEDNESDAY, SEPTEMBER 21, 2005</u>	
COUNCIL	9:00 a.m.	SHERATON KEAUHOU BAY RESORT & SPA

	<u>TUESDAY, OCTOBER 4, 2005</u>	
COMMITTEES	TBA	COUNCIL ROOM

	<u>WEDNESDAY, OCTOBER 5, 2005</u>	
COUNCIL	9:00 a.m.	COUNCIL ROOM

ADJOURNMENT 4:54 p.m.

Note: B/R, as listed next to the name of an Introducer, signifies that the Council Member has agreed to introduce legislation "By Request" and on behalf of the requesting party; however, it does not necessarily signify their support of or opposition to the proposal.

The meeting place is accessible for persons with disabilities. Persons who need special accommodations to attend this meeting should call 961-8255 by September 7, 2005. Persons using TDDs may call 961-8521.

Copies of an item listed on the agenda may be viewed at the Hawai'i County Services Office at 75-5706 Kuakini Highway, Suite 103, Kailua-Kona, Hawai'i 96740; at the Office of the County Clerk at 25 Aupuni Street, Hilo, Hawai'i 96720; at the Kona Council Members' Office at the Kailua Trade Center, 75-5706 Hanama Place, Suite 109, Kailua-Kona, Hawai'i 96740; and at the Waimea Council Members' Office at the Holomua Center, 64-1067 Māmalahoa Highway, Suite 5, Waimea, Hawai'i 96743.

Videoconferencing is available at the following locations:

- Kona Council Office at the Kailua Trade Center; and
- Waimea Council Office at the Holomua Center.

However, if for technical reasons the video connection cannot be made and/or is disrupted, the scheduled meeting will continue.

- Videoconferencing from the Pāhoa Neighborhood Facility will not be available.

Submitting Testimony: Those persons wishing to testify in person or by videoconference must register with the Council/Clerk's staff. Those testifying in person and submitting written testimony at the meeting in Hilo should bring **sixteen (16)** copies of the testimony for distribution at the meeting. Those testifying by videoconference from the Kona Council Office and the Waimea Council Office should bring one copy of the testimony. Those persons unable to testify in person or by videoconference may submit testimony (1) by mail to the County Clerk's Office in Hilo at the above address, (2) by facsimile to (808) 961-8912, or (3) by e-mail to *counciltestimony@co.hawaii.hi.us*. Copies will be made and distributed at the meeting when transmitted in a timely manner. In any case, both oral and written testimony will be considered public record.

Government Access Television: Channel 52 (Hilo and Kona) Wednesday, September 14, 2005, at 6 p.m.; Sunday, September 18, 2005, at 10:30 a.m.; and Wednesday, September 21, 2005, at 6 p.m.

(Hawai'i Tribune Herald – September 7, 2005)

(West Hawai'i Today – September 6, 2005)